THE HON'BLE SRI JUSTICE P.S.NARAYANA

WRIT PETITION No.14563 of 2007

DATE: 22.11.2007

Between:

Karedla Venmkataramana

....Petitioner

and

The Commissioner of Endowments,
Hyderabad and others

....Respondents

THE HON'BLE SRI JUSTICE P.S.NARAYANA

WRIT PETITION No.14563 of 2007

ORDER:

Heard Sri M.Bala Subrahmanyam, learned counsel representing the writ petitioner, the learned Assistant Government Pleader for Endowments representing respondents
1 to 3 and Sri V.T.M.Prasad, learned counsel representing respondent No.4-temple.

2. This writ petition is filed for a writ of mandamus directing the respondents not to evict the petitioner from Ac.4.29 cents in S.No.247, 146 and 78 in Mamidivada Village, Rambilli Village, Visakhapatnam District belonging to the 4th respondent without following the procedure as contemplated under the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 (hereinafter referred to as 'the Act' for the purpose of convenience) and the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Lease of Agricultural Lands Rules, 2003.

3. It is stated that in the year 1970, the Endowments Department conducted public auction for the leasehold rights of an extent of Ac.4.29 cents in S.Nos.247, 146 and 78 in Mamidivada Village

belonging to the 4th respondent and in the said public auction, the petitioner became the highest bidder. The proceeding of the 1st respondent was issued on 22.06.1970. The 1st respondent approved the lease and the same was communicated to the 2nd respondent. The 2nd respondent issued proceedings, dated 02.07.1970. Thereafter, the 4th respondent executed a lease deed in favour of the petitioner for a period of six years as per the proceedings issued by the 1st respondent. As per the aforesaid agreement, the lease period was for the years 1970 to 1975. After expiration of the aforesaid lease period, the petitioner had been continuing as a tenant under the 4th respondent, which had been receiving the agreed enhanced rents from time to time under protest without prejudice to the rights. The 4th respondent has been receiving the rents and passing receipts for all the years. It is respectfully submitted that for the current year, the petitioner deposited a sum of Rs.5,200/-. On 25.4.2007, the 4th respondent issued a receipt under protest as damages towards part payment.

4. It is also stated that the petitioner is a landless poor person as contemplated under Section 82 of the Act. He is solely depending on agriculture and except the lands, which are under cultivation, belonging to the 4th respondent, there are no other lands.

5. Section 82 of the Act aforesaid also had been referred to. Further, it is stated that in pursuance of the exercise of powers conferred under Section 82 read with Section 153(1) of the Act, the Government of Andhra Pradesh made rules called as the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments

Lease of Agricultural Lands Rules, 2003 (hereinafter referred to as 'the Rules' for the purpose of convenience). The Rules provide certain procedure to be followed by the authorities and contemplated notices to be issued to the existing tenants before evicting them from the endowment lands. Rule 5 of the Rules had been referred to. It is also stated that the petitioner has been continuing as a tenant of the 4th respondent from 1970 onwards and as on today also, he has been continuing as a tenant and depositing the agreed rents to the 4th respondent, which is passing valid receipts for the agreed rents received by it. Further, it is stated that while the matter stood thus, it appears that the respondents herein on 23.05.2007 clandestinely conducted auction without giving any notice to the petitioner whatsoever as contemplated under Rule 5 of the Rules. Issuance of notice to the existing tenants as contemplated under the above rules being mandatory and the petitioner being a landless poor person, the said action is in contravention of the provisions of the Act aforesaid and the rules specified above and also is in violation of principles of natural justice.

6. This Court ordered notice before admission on 09.08.2007 and directed status quo to be maintained for a limited period and the said order is being extended from time to time. On 15.11.2007, it was represented that the lands already had been handed over to the highest bidder and in a way the writ petition itself became infructuous.

7. In WVMP No.2502 of 2007, in the counter-affidavit filed in support thereof, it is stated that from the records and information obtained from the temple, Sri Vallabhanarayana Swamy Temple, Mamidivada Village, Rambilli Mandal, Visakhapatnam is a public religious institution published under Section 6(c)ii of the Act 30/87 and

is having wet lands measuring Ac.10.79 cts, in which land to an extent of Ac.4.29 cts. covered by Sy.No.247, 146, 78 in Mamidivada Village was under occupation of the petitioner. There is no valid lease in his favour. Since the lease period expired long back, a notice vide No.69/2003, dt.07.11.2003, was issued to the petitioner by the trustee of the temple with a request to handover vacant possession of the land to the temple. There upon, the petitioner has filed a claim to declare him as a landless poor and the same was rejected by the Assistant Commissioner of Endowments, in Rc.No.A3/4934/2003, dt.21.07.2005, on the ground that there is no valid lease in his favour. Moreover, the petitioner has cultivated that lands measuring Ac.4.29 cts., besides Ac.0.77 cts. of wetland of his own. Thus, he is having more than 5 acres of land and, therefore, he does not come under the definition of landless poor person besides there is no valid lease, as such, his claim was rejected. Further, it is stated in reply to paras 5 to 7 of the affidavit filed in support of the writ petition that the petitioner is neither having valid lease nor is a landless poor. The petitioner by suppressing the facts filed this petition. It is also stated that the Trustee of the temple had issued Form-I notice as required under Rule 5(i) to the petitioner, which was acknowledged by him on 07.11.2003. Thereupon, he has also filed a petition to declare him as landless poor before the 2nd respondent. After due enquiry, the 2nd respondent passed orders in D.Dis.No.A3/4934/2003, dated 21.07.2005 rejecting the claim of the petitioner. The Chairman, Trust Board of the temple has put the lands for lease for a period of three years in public auction on 23.05.2007. The petitioner himself participated in public auction and became unsuccessful bidder. The highest bid in the above public auction was knocked down in favour of one Sri Pappala Appa Rao @ Pentayya, Son of Satyanarayana, Mamidivada Village for annual rent

of Rs.25,100/- as against previous rent of Rs.4,200/-. The 2nd respondent approved the lease in favour of the highest bidder and Chairman of the Trust Board of the Temple has handed over the vacant possession of the land to the highest bidder of the public auction held on 23.05.2007 and the lessee is in cultivation of the land. In view of the same, it is stated that the writ petition deserves dismissal and the interim order is liable to be vacated.

8. As can be seen from the respective stands taken by the parties, this Court is of the considered opinion that the writ petition is devoid of merit since the petitioner does not satisfy any of the ingredients which are to be satisfied by virtue of Section 82 of the Act aforesaid. It is needless to say that there is no approved lease in favour of the writ petitioner and in such case, the petitioner is not entitled to any of the reliefs as prayed for in the writ petition.

9. Accordingly, the writ petition is hereby dismissed. No order as to costs.

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P.S.NARAYANA, J

22nd November, 2007.

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